



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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7/13/2023

Mr. David Bruschwein, P.E.
Director
Division of Municipal Facilities
North Dakota Department of Environmental Quality
4201 Normandy Street
Bismarck, ND 58503-1324

Dear Mr. Bruschwein:

The U.S. Environmental Protection Agency (EPA), Region 8, has conducted an annual review of the North Dakota Clean Water State Revolving Fund (CWSRF) for state fiscal year (SFY) 2022, which coincides with calendar year 2022, in accordance with the EPA's SRF Annual Review Guidance. The federal fiscal year (FFY) 2022 runs from October 1, 2021 to September 30, 2022.

The North Dakota Department of Environmental Quality (NDDEQ) is the CWSRF grantee, who develops the Intended Use Plan (IUP), and manages CWSRF projects. The North Dakota Public Finance Authority (PFA) provides financial management of the program, including evaluating a borrower's ability to pay, monitoring recipient's annual financial statements upon project completion, ensuring an independent audit is completed each year, and issuing bonds. The North Dakota CWSRF operates as a direct loan program that will episodically issue leveraged bonds if warranted by project demand.

This annual review summarizes EPA Region 8's evaluation of the technical, financial, legal, managerial, and operational capabilities and performance of the NDDEQ and PFA in administering the CWSRF. Activities incorporated into the annual review were an analysis of the 2022 and 2023 IUPs, audited financial statements, 2022 annual report, project files for two SRF funded projects (City of Strasburg 380939-02 and City of Portland 380853-04), three cash draws listed below, and information logged into the SRF Data System. An in-person annual review was conducted April 17-19, 2023, with the closeout meeting on April 19, 2023. Normally, four cash draws undergo transaction testing. However, North Dakota had only three cash draws during SFY22 (two from base SRF and one from Bipartisan Infrastructure Law (BIL) supplemental).

CS380001-22:	\$4,735,432	September 19, 2022
CS380001-22:	\$945,568	September 26, 2022
4C96888001-22 (BIL):	\$581,026	December 18, 2022

Observations

The state of North Dakota managed its CWSRF program during SFY22 in accordance with applicable statutes, regulations, and guidance. The North Dakota CWSRF continues as a high-performing revolving loan fund that is committing and then using all project funds in a very timely manner. The state continues to experience strong sewer collection and landfill project demand.

The state awarded eight new project loans (plus three loan increases and one refinance), totaling \$115 million in CWSRF project loans in SFY22. Both the Metro Flood Diversion Authority and the City of Grand Forks were awarded more than \$50 million each. This loan activity is a large increase from last year in dollar value and illustrates North Dakota SRF's ability to ramp up to meet community needs. It should be noted that the total number of loans dropped from 13 to 8 loans, illustrating the program's ability to accommodate varying sizes and numbers of projects. All projects were funded at a 1.5 percent interest rate with a maximum loan term of 30 years. In addition, there is an administrative fee of 0.5 percent that is used to augment the administration set-aside and other eligible activities.

The state disbursed \$52.7 million to recipients during SFY22. Based on information available in the SRF Data System and National Information Management System (NIMS) (which reports data from July 2021 through June 2022 and is not in direct alignment with the state fiscal year), the state disbursed \$16.7 million in new water quality projects from its CWSRF. Of the \$16.7 million, \$3.8 million went to secondary treatment, \$8.4 million went towards sewer system rehabilitation and Infiltration/Inflow, \$370,000 went towards new interceptors, \$120,000 for conservation water efficiency projects, and \$4.62 million went toward Non-Point Source sanitary landfill projects. Additionally, \$540,000 was reduced as an accounting adjustment from the grey storm water and conservation re-use categories.

In November 2021, the BIL was signed into law, which appropriated federal CWSRF funding for FFY22-FFY26 for two types of CWSRF infrastructure projects: supplemental CWSRF and emerging contaminants (EC). In March 2022, EPA issued BIL Implementation Guidance with the FY22 allotments. The FFY22 BIL supplemental grant was awarded to North Dakota for the full \$8,738,000 on December 13, 2022. The FFY22 emerging contaminants grant (allotted \$459,000) was not applied for in 2022. North Dakota CWSRF completed their 2023 CWSRF IUP on February 2, 2022, indicating a continued search to identify project use for the EC grant funds. Since that time, a landfill project involving PFAS in leachate for the City of Fargo has been identified. With that, the FY2022 and FY2023 CWSRF EC grant applications were recently received. Additionally, the grant applications for FY2023 base and BIL supplemental have also been recently received. The FFY2023 allotments for North Dakota's are listed below:

CWSRF Supplemental:	\$10,233,000
Emerging Contaminants:	\$1,043,000
CWSRF Base:	\$3,683,000*

*Note that the North Dakota FY23 CWSRF base allotment was greatly diminished compared to FFY22. EPA Region 8 continues to raise concerns to national leadership regarding the reduced SRF funding across the nation, due to funds directed to Congressional Directed Spending (CDS) "earmark" projects instead of the SRF program. Once BIL funding sunsets, the reduction to the CWSRF base funding will

severely limit the SRF programs' ability to meet project demand.

Throughout the five years of BIL Implementation, EPA expects North Dakota to:

- evaluate and revise, as needed, its CWSRF affordability criteria;
- evaluate the CWSRF's priority point system for project ranking commensurate with need;
- consider technical assistance funding; and
- engage residents and community stakeholders in disadvantaged communities.

Unliquidated Obligations

As of the end of calendar year 2022, the North Dakota CWSRF had just \$8 million in remaining unliquidated obligations (ULO)s, yielding a 97 percent spending rate, an outstanding achievement.

Green Project Reserve

The North Dakota CWSRF has met and exceeded its Green Project Reserve requirement through FY22 for all grants, with an especially large GPR project designated in 2022 for Cass Rural Water District (\$28 million). The Cass Rural Water District project will include construction of an effluent water reuse facility at the Fargo Regional Water Reclamation Facility. Treated reuse water from the facility will be conveyed to Casselton, ND.

Additional Subsidy

The North Dakota CWSRF provided additional subsidy in the form of loan forgiveness for five communities who met affordability criteria, as a part of the 2022 SRF grants. The state allocated \$4.3 million as a part of the FFY22 BIL Supplemental grant and \$1.1 million was allocated as a part of the FFY22 Base SRF grant, meeting grant requirements for both. The CWSRF has also met its additional subsidy requirements for 2021 and all prior grants.

Additional Subsidy must be provided at a minimum of 20% (10% mandatory Congressional plus 10% mandatory CWA) up to 40% of the base SRF grant, 49% of the BIL supplemental grant and 100% of the BIL EC grant. The FFY22 and FFY23 requirements are outlined below:

Additional Subsidization Minimum Requirements			
FFY	Base	BIL Supplemental	BIL EC
2022	\$1,136,200	\$4,281,620	\$459,000
2023	\$736,600	\$5,014,170	\$1,043,000

Continuing in 2022, North Dakota CWSRF is offering up to 75% loan forgiveness for new construction only, up to the mandatory additional subsidization required. The CWSRF program provides additional subsidy to communities meeting affordability criteria as loan forgiveness. The program developed affordability criteria several years ago but began using affordability criteria to offer additional subsidy in SFY22. Starting in SFY22, the program has expanded its affordability criteria to include the following four criteria:

- (1) Median Household Income
- (2) Relative Future Wastewater Cost Index
- (3) Unemployment
- (4) Population Trends

Equivalency

For equivalency, North Dakota CWSRF has recently designated Fargo and Bismarck projects to meet equivalency requirements for FFY21 through FFY22. These projects are also anticipated to meet equivalency for FFY23. The program has previously met equivalency requirements through the FFY20 grant.

CWSRF Project Progress

For more traditional measures, the North Dakota CWSRF is summarized below with the following table, which presents fund use rate and pace of construction at the end of 2022.

North Dakota CWSRF Program Summary (\$ millions) December 31, 2022				
CWSRF Funds Available for Projects	Project Assistance	Fund Use Rate	Project Disbursements	Pace of Construction
\$831.3	\$978.6	118%	\$798.0	82%

Financial Indicators

As of December 31, 2022, North Dakota's CWSRF *fund use rate* was 118 percent, illustrating the programs commitment to award loans to serve the needs of their communities. The program undergoes regular cash flow evaluation to ensure they can keep pace with commitments. Recently issued large loans will take time to disburse, allowing the program to keep pace with their commitments.

The *pace of construction* (disbursements divided by total project amounts) decreased slightly from 86 percent to 82 percent, which is to be expected due to the recent large loans. The pace is expected to improve as the large projects at Grand Forks (\$54.6 million) and Metro Flood Diversion Authority (\$51.6 million) continue construction.

Overall, North Dakota CWSRF staff manages projects very well. The state disbursed \$52.7 million in construction expenses relative to \$14.4 million in federal cash draws. North Dakota's cumulative CWSRF *Federal Return* increased from 3.06 to 3.19 and illustrating several years of return increase. For the overall "flow of North Dakota CWSRF funds", as of December 31, 2022, the percentage of construction disbursements (\$798.8 million) divided by total CWSRF funds available (\$831.3 million) is 96 percent, marking the fourth consecutive year of flow increase.

A key component of strategic SRF fund management is the balancing of cash inflows and outflows. The following ratio shows how efficiently North Dakota's CWSRF is revolving by examining the program's disbursement rate over a set time-period and comparing it to the amount of cash on hand. The ratio is calculated by subtracting total project disbursements (\$798.8 million) from total funds available (\$831.3 million) and comparing this number (\$33.2 million) to the average annual disbursements over the past three years (\$44.9 million). For the North Dakota CWSRF, this ratio is 0.74 (years), a large increase in the speed of disbursement over last year (1.73 years) and an incredible disbursement rate.

Bonds were issued in 2018 and another \$25 million was issued in January 2022 to meet needs of the program and several years of state match. As the bond proceeds are spent to fund projects, the numbers of years of available cash will decline until there is a future bond issue. Leveraged bonds are anticipated to be issued again in 2024.

North Dakota CWSRF project milestone accomplishments as of June 30, 2022, are as follows (in \$ millions), based on SRF Data System/NIMS data. The percentage of project completions to funds available is 74 percent, which declined slightly from 79 percent in 2021, largely due to the influx of BIL funds.

- CWSRF Funds Available: \$838.4
- Project Assistance: 370 projects at \$845.9
- Construction Starts: 366 projects at \$837.1
- Project Completions: 335 projects at \$618.4

Financial Sustainability

Based on information from the SRF Data System, the North Dakota CWSRF's *Net Return (Excluding Subsidy)* decreased slightly from \$56.9 million to \$54.9 million as of June 30, 2022. For July 1, 2021 through June 30, 2022, the state collected \$7.8 million in interest payments and \$570,000 in interest earnings, paid \$8.1 million in leveraged bond principal, paid \$1.9 million in state match bond principal and \$8.4 million in bond interest expense.

The *Net Return on Contributed Capital excluding Subsidy* (contributed capital being the sum of federal outlays for loan fund and deposited state match) is 17.5 percent. This value has declined slightly each year for the last four years, as bond interest expenses and match principal repayments have increased. For a CWSRF that relies on state match bonds and occasionally issues leveraged bonds, these returns remain good. Attached to this report is a table that shows each indicator in further detail.

Total Net

Total Net measures the extent by which internal growth is generating additional funding for new projects. This is calculated by taking the total cash inflows generated by ongoing loan and investment activity and subtracting debt service payments from outstanding match bonds. New federal capitalization grants are excluded from this calculation. The measure reflects the amount of new annual project funding that is generated solely from net repayments. For SFY22, the North Dakota CWSRF's *total net* increased slightly from \$13.6 million (2021) to \$14.3 million.

Financial Management and Proportionality

The CWSRF shows sound financial health and management. There have been no defaults and all municipal loans are secured by revenues from user charges and/or full faith and credit of the borrowing entities. The CWSRF statement of net position, as of December 31, 2022, was \$310.3 million, a 3 percent increase from the 2021 net position of \$301.2 million.

Since the state has deposited and disbursed match prior to drawing federal funds, all Base SRF and BIL Supplemental cash draws listed on page one (above) were completed with a 100 percent federal proportion. Furthermore, the payment requests were for eligible costs and were adequately documented. No costs were questioned, and there were no improper payments.

On February 23, 2023, Brady, Martz & Associates, P.C. issued audited financial statements on the CWSRF for the year ending December 31, 2022. The auditors expressed an unqualified opinion, indicating that the financial statements present fairly, in all material respects, the financial position of the North Dakota CWSRF in conformity with generally accepted accounting principles. The single audit for North Dakota SRFs was completed on February 23, 2023, and no findings were reported.

Prior Recommendations

There were no recommendations from last year's review.

New Recommendations

There are not any new recommendations with this review.

The North Dakota CWSRF assessment has been completed by SRF Coordinator, Emily Gillespie, in collaboration with the EPA Region 8 SRF team. If you have questions, you may contact Emily at Gillespie.Emily.J@epa.gov or (406) 457-5009.

Sincerely,

Benjamin Bents
Branch Chief
Technical and Financial Services Unit

cc: Ms. DeAnn Ament, Executive Director, ND PFA
Ms. Elizabeth Tokach-Duran, CWSRF Program Manager, ND DEQ

NORTH DAKOTA CWSRF; TITLE VI FUNDS **FINANCIAL INDICATORS; Cumulative Data (\$ Thousands)**

Cumulative

As of State Fiscal Year End

	Dec. 31 2018	Dec. 31 2019	Dec. 31 2020	Dec. 31 2021	Dec. 31 2022
Fund Use Rate					
CWSRF Assistance Provided	\$813,419	\$818,214	\$837,682	\$863,580	\$ 978,584
CWSRF Funds Available	731,945	756,052	778,447	811,803	\$ 854,712
Fund Use Rate	111%	108%	108%	106%	114%
CWSRF Funds Available:					
Net Capitalization Grants (Minus 4% for Admin.)	203,438	210,906	218,374	226,812	\$ 231,582
Total State Match	53,792	53,792	53,792	63,792	\$ 63,792
Net Funds Provided from Leveraged Bonds	283,729	283,729	283,729	283,729	\$ 308,729
Net Return*	59,704	59,253	58,572	56,887	\$ 54,919
Net Principal	153,737	170,827	186,436	203,039	\$ 218,146
Transfer from DWSRF	29,061	29,061	29,061	29,061	\$ 29,061
Transfer to DWSRF	(51,516)	(51,516)	(51,516)	(51,516)	\$ (51,516)
CWSRF Funds Available	731,945	756,052	778,447	811,803	\$ 854,712
Additional SRF Projects Due to Leveraging					
CWSRF Assistance Provided	\$813,419	\$818,214	\$837,682	\$863,580	\$ 978,584
CWSRF \$ Available w/out Leveraged Bonds	448,217	472,323	494,719	528,075	\$ 545,983
Additional SRF Projects Due to Leveraged Bonds	365,202	345,891	342,963	335,505	\$ 432,601
CWSRF \$ Available w/out Leveraged Bonds:					
Net Capitalization Grants (Minus 4% for Admin.)	203,438	210,906	218,374	226,812	\$ 231,582
Total State Match	53,792	53,792	53,792	63,792	\$ 63,792
Sustainability (Net Returns Excludes Subsidy)	59,704	59,253	58,572	56,887	\$ 54,919
Net Loan Principal Repaid	153,737	170,827	186,436	203,039	\$ 218,146
Transfer from DWSRF	29,061	29,061	29,061	29,061	\$ 29,061
Transfer to DWSRF	(51,516)	(51,516)	(51,516)	(51,516)	\$ (51,516)
CWSRF \$ Available w/out Leveraged Bonds	448,217	472,323	494,719	528,075	\$ 545,983
Project Disbursements	608,704	656,260	691,095	745,297	\$ 798,034
Cumulative CW SRF Assistance Provided	813,419	818,214	837,682	863,580	\$ 978,584
Pace of Construction	75%	80%	83%	86%	82%
Project Disbursements	608,704	656,260	691,095	745,297	\$ 798,034
Federal Outlays (Cash Draws for Projects)	220,248	228,027	235,807	243,586	\$ 249,848
Return on Federal Investment	2.76	2.88	2.93	3.06	3.19
Project Disbursements	608,704	656,260	691,095	745,297	\$ 798,034
CWSRF Funds Available	731,945	756,052	778,447	811,803	\$ 854,712
Overall Flow of CWSRF Funds	83%	87%	89%	92%	93%
Undisbursed Project Funds	123,241	99,792	87,352	66,506	\$ 56,678
3-year Average Annual Disbursements	34,077	33,011	34,151	40,123	\$ 44,858
Ratio of Undisbursed Funds to Disbursements	3.62	3.02	2.56	1.66	1.26
Loan Principal Repayments	\$244,358	\$268,667	\$292,976	\$317,285	\$ 340,452
Leveraged Bond Principal Repayments	90,621	97,840	106,541	114,247	\$ 122,307
Net Loan Principal Repaid	153,737	170,827	186,436	203,039	\$ 218,146

NIMS Report Data July-June

	30-Jun 2018	30-Jun 2019	30-Jun 2020	30-Jun 2021	30-Jun 2022
Interest Payments	\$ 79,338	86,795	\$ 94,368	101,974	\$ 109,749
Interest Earnings	\$ 111,281	114,270	\$ 117,176	118,320	\$ 118,892
Bond Interest Expense	\$ (95,311)	(-104,456)	\$ (113,547)	(-122,177)	\$ (130,593)
Match Principal Repaid	\$ (35,604)	(-37,355)	\$ (39,425)	(-41,230)	\$ (43,128)
Net Return Excludes Subsidy* (Sustainability)	59,704	59,253	58,572	56,887	\$54,919
Net Return (Sustainability)	59,704	59,253	58,572	56,887	\$54,919
Contributed Capital	274,040	281,819	289,599	307,378	\$313,640
Net Return on Contributed Capital*	21.8%	21.0%	20.2%	18.5%	17.51%
National Net CWSRF Return					
Annual					
Interest Payments	7,565	7,461	7,573	7,607	\$ 7,775
Interest Earnings	1,989	2,989	2,643	1,143	\$ 572
Loan Principal Repayments	24,053	23,632	23,223	23,028	\$ 24,334
Leveraged Bond Principal Repaid	(8,124)	(7,219)	(8,700)	(7,706)	\$ (8,060)
Match Bond Principal Repaid	(2,739)	(1,751)	(1,987)	(1,804)	\$ (1,899)
Bond Interest Expense	(7,557)	(9,146)	(9,091)	(8,630)	\$ (8,416)
Total Net (Annual)	15,187	15,967	13,661	13,637	\$ 14,306